

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

THE PEOPLE,

Plaintiff and Respondent,

v.

JEFFREY MALONE,

Defendant and Appellant.

B292289

(Los Angeles County
Super. Ct. No. BA465856)

APPEAL from a judgment of the Superior Court of Los Angeles County, Kerry Bensinger, Frederick Wapner, Judges. Affirmed.

Richard L. Fitzer, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Jeffrey Malone appeals from the judgment entered following his no contest plea to unlawful possession of a firearm.

FACTUAL AND PROCEDURAL BACKGROUND

On February 25, 2018, Los Angeles Police Officer Manuel Mendieta initiated a traffic stop of Malone, who was alone in his car. The officer approached and repeatedly ordered Malone out of the car. Each time, Malone refused and requested the presence of the officer's supervisor. Five minutes elapsed before the supervisor arrived. During that time, Officer Mendieta smelled a "strong" odor of marijuana emanating from the inside the car through a partially open window.

After the supervisor arrived, Malone got out of his car and locked it, saying he did not want his car searched. Los Angeles Police Officer Ramon Borunda, Mendieta's partner, reached through a partially open window and unlocked the car initially to obtain Malone's registration and insurance. However, based on the smell of marijuana, the officers decided to conduct a narcotics search. On the front passenger seat, Officer Borunda saw an open backpack containing "large jars" of marijuana. The three jars were later determined to contain 276.65 grams, 190 grams and 193.42 grams of marijuana, respectively. Based on the odor of marijuana coming from the trunk, the officers opened it and found a handgun.

Malone was arrested and charged in an information with one count of possession of a firearm in violation of Penal Code section 29820, subdivision (b). The information specially alleged that Malone had previously suffered one prior serious or felony conviction within the meaning of the three strikes law (Pen. Code, §§ 667, subds. (b)-(j), 1170.12).

Following a hearing held in conjunction with the preliminary hearing, the trial court denied Malone's motion to suppress evidence (Pen. Code, § 1538.5).

On August 20, 2018, Malone entered a plea of no contest to the court for unlawful possession of a firearm and admitted the prior strike conviction. The court dismissed the prior strike conviction (a juvenile court disposition) as remote. The court sentenced Malone to the upper term of three years, suspended execution of sentence and placed him on three years of probation.

Malone filed a timely notice of appeal, in which he checked the pre-printed box indicating his appeal was "based on the denial of a motion to suppress evidence under Penal Code section 1538.5."

DISCUSSION

We appointed counsel to represent Malone in this appeal. After reviewing the record, counsel filed an opening brief raising no issues. On November 27, 2018, we gave Malone notice he had 30 days to submit a brief or letter raising any grounds of appeal, contentions, or arguments she wanted us to consider. We have not received a response.

We have examined the record and are satisfied that appellate counsel for Malone has complied with his responsibilities and that there are no arguable issues. (*Smith v. Robbins* (2000) 528 U.S. 259, 277-284 [120 S.Ct. 746, 145 L.Ed.2d 756]; *People v. Kelly* (2006) 40 Cal.4th 106, 118-119, *People v. Wende* (1979) 25 Cal.3d 436, 441-442.) There was sufficient probable cause for the officers to conduct a warrantless search of the car, including the trunk. (*People v. Fews* (2018) 27 Cal.App.5th 553, 562-564.)

DISPOSITION

The judgment is affirmed.

ZELON, Acting P. J.

We concur:

SEGAL, J.

FEUER, J.